IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Mark J. Levine and John VanHandel
Serial No.	:	10/631,937
For	:	FABRICS WITH V-GUIDES
Filed	:	July 31, 2003
Examiner	:	Donald J. Loney
Art Unit	:	1772
Confirmation No.	:	9678

745 Fifth Avenue
New York, NY 10151

October 14, 2008

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 1-13 and 15-23 are pending and rejected in this application. Appellants respectfully request that the Panel consider the following arguments. Claims 1-13, 15-17 and 19-21 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,558,926 to Tate et al. ("Tate") in view of U.S. Patent No. 4,559,258 to Kiuchi ("Kiuchi"). Claims 1-13 and 15-21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,008,801 to Reilly et al. ("Reilly") in view of Kiuchi, and claims 22-23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tate or Reilly in view of GB 2106557 to Curry et al. ("Curry"). Applicants traverse and respectfully request reconsideration and withdrawal of the rejections thereto.

Independent claim 1 recites:

> A fabric having a fabric caliper, **said fabric having a top surface coating that encapsulates fifty percent or less of the fabric caliper and said fabric comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper** with guide material in a region where the guide is attached to the fabric, wherein the guides are substantially v-shaped. (Emphasis added)

Tate fails to disclose the above-recited limitation and nothing in Kiuchi cures this deficiency. The Office Action fails to address Applicants' remarks that the claimed belt requires 50% or more encapsulation of the fabric caliper by the guides. Tate, in stark contrast, unambiguously states that its "bending resistant part...is formed by filling **not less than 85% percent of the space of the fabric** with a thermoset resin...." *Tate*, col. 3, lns. 10-13. Tate's reason is that: "[t]he amount less than 85% tends not to result in enough bending resistant effect and satisfactory fusion to the guide protrusion." *Id.*, col. 4, lns. 42-44. As Applicants explained in the prior response, when the fabric structure is filled with the resin layer applied to the face side of the fabric to 85% or more of its thickness, **that only leaves – at best -- 15% of the structure to adequately bond the guide.** See *Tate* at, col. 4, lines 40-51. Claim 1, on the other hand, requires "**one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper.**" Thus Tate is clearly deficient. As Kiuchi teaches no guides whatsoever, it fails to cure Tate's deficiency, regardless of the percentages of penetration and encapsulation Kiuchi allegedly discloses. Among other things, Tate's construction forecloses any overlap or closeness for the claimed range.

Applicants also note that Tate also teaches away from the combination alleged by the Office Action. At page 3 the Office Action alleges the reason for combining Tate with Kiuchi is "in order to securely and positively attach [the guide] thereto and the deeper into the fabric the

material flows the greater that bond would be since the material would be able to attach to more of the fabric." Yet Tate says: "...a guide protrusion is fastened **to the bending resistant part** by fusion. This fusion provides good guiding characteristic **since the fabric is firmly bound**." *Tate*, col. 4, lns. 21-23, emphasis added. Tate goes on to state:

> Polyurethane resin is used in the fabrication of the protrusion body and the trimming edge because the wear resistance is excellent, **the bond formed is good**, and the flexibility is sufficient so that the turning at the inner roll is excellent.

Tate, col. 4, lns. 52-55, emphasis added. Tate fails to regard secure attachment of the guide as a problem, and indeed, regards its guide as firmly bound, albeit to the bending resistant part and not the fabric. Taken together with Tate's warning that less than 85% penetration of the face side resin layer does not "result in enough bending resistant effect and satisfactory fusion to the guide protrusion," Tate clearly undermines the Office Action's alleged reason for the combination, and indeed expressly teaches away from it.

As explained in prior responses, claim 1, inter alia, addresses the above-noted shortcoming of Tate, which is why the face side resin layer penetrates the structure less, and the actual guide itself, when formed on the backside or driveside of the belt, penetrates further into the base structure by a factor of at least three when compared to Tate. The guide member's penetration into the fabric, **as opposed to the face side of the resin layer as taught by Tate**, improves the belt's resistance to tearing off.

Applicants also note that Kiuchi says nothing about the percentage of encapsulation or penetration of its coatings. It is unlikely that Kiuchi's layers 12 and 12' in Figure 2 are approximately equal to one another. As Kiuchi is silent on percentages and does not regard such percentages as meaningful, Figure 2's image is not intended as a depiction of the penetration of the coatings. Indeed, Figure 2 is not presented as a specific embodiment, but as a sectional view

of Kiuchi's entire invention (See *Kiuchi* at col. 2. lines 36-38 and 46-47.) Example 2 of Kiuchi is also deficient as it does not, as the Office Action alleges, disclose the coating on each side of the fabric reaches approximately 50% inside the fabric. Rather, Kiuchi simply states: "At this time the polyurethane resin is impregnated into the base fabric so that it reaches **approximately the inside.**" *Kiuchi*, col. 6, lns 10-12, emphasis added. Kiuchi is again silent on percentages.

Claims 1-13 and 15-21 are rejected under §103(a) over Reilly in view of Kiuchi. The Office Action alleges that "the polyurethane and guide the applicant is referring to are one integral part (col. 3 lines 30 and 31), therefore the guide does penetrate the fabric." With all due respect, the Office Action misunderstands the Reilly reference. Reilly discloses a guide formed by molding polyurethene into interstices of a fabric backing, and then the guide, which includes the fabric backing, is subsequently adhered to a conveyor belt. The molding is between the polyurethane and the fabric backing 32 and **not** between the guides 21 and the conveyer belt 16. *Reilly.*, Figs. 1-4. Indeed, the Office Action's citation explains that Reilly's guide includes rib and a base web that are molded as an integrated piece. But these are part of Reilly's guide, not the conveyor belt. Moreover, Reilly's fabric backing is applied to the side of the base web. The fabric backing is also part of the guide, not the belt. As Reilly explains:

> It is important that the fabric be securely held to the polyurethane by this method since the fabric provides the adhesive interface with the conveyor belt as will be noted.... In use the guide can be secured to the conveyor belt for use by any appropriate adhesive....

Reilly, col. 3 lns 39-42, col. 4, lns. 56-59. Reilly's guide is adhered to Reilly's conveyor belt via the guide's fabric backing, thus the guide material is never impregnated into Reilly's belt, hence never encapsulating it. Thus the Office Action improperly "deems the material flowing into the interstices as encapsulating the fabric caliper...." Office Action, page 4.

To the contrary, as Applicants explained in the prior response, Reilly teaches casting the guide in one piece with the base (web) containing an impregnated fabric backing. Reilly expressly teaches improving adherence of the guide to the belt surface via **adhesive** (*Reilly*, col. 4, lines 56-59), not encapsulation of the fabric caliper. Therefore, Reilly both fails to disclose and teaches away from "guides attached...**so as to encapsulate** approximately fifty percent or more of **the fabric caliper with guide material in a region where the guide is attached**," and for at least this reason, the teachings of Reilly cannot and do not combine with Kiuchi to render obvious claim 1. Applicants also note that the reason given by the Office Action for the combination is the same as that given above with respect to Reilly, namely, adjusting the depth of the coating for a more secure attachment. The reason does not make sense as Reilly's guide is adhered to the belt, not impregnated. Moreover, Kiuchi itself is deficient as a reference for all the reasons given above in the discussion of the §103 rejection over Tate and Reilly.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and an early and favorable consideration thereof is solicited. Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: /Brian M. McGuire/
Ronald R. Santucci
Reg. No. 28,988
(212) 588-0800

Brian M. McGuire
Reg. No. 55,445
(212) 588-0800